EQUAL EMPLOYMENT OPPORTUNITY COMMISSION RELEASES REVISED NATIONAL ENFORCEMENT PLAN FOR FISCAL YEARS 2025–2029

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US Labor, Employment, and Workplace Safety Alert

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On 4 June 2026, the US Equal Employment Opportunity Commission (EEOC) released its new National Enforcement Plan (NEP) for fiscal years 2025–2029,[1] replacing the agency's 2024–2028 Strategic Enforcement Plan. This alert addresses the agency's new enforcement priorities, offers insight into the EEOC's areas of emphasis in the coming years and outlines practical considerations for employers navigating this rapidly evolving regulatory landscape.

As set forth in the EEOC's press release, the NEP sets out the agency's priority areas for enforcement activity, including investigations, litigation, and settlements, and continues to focus on a "merit-based" approach to its review of claims of discrimination.[2] The NEP represents a major policy shift from prior EEOC enforcement approaches, a shift that aligns with executive orders issued by the Trump administration and the EEOC's (and the Chair's) public statements over the past 18 months on the agency's overall mission.[3] Consistent with prior EEOC statements, the NEP will now prioritize litigation of disparate treatment claims over disparate impact claims and will seek to minimize the use of disparate impact theories "to the maximum degree possible, consistent with EO 14281" in its investigations.[4] In support of this shift, and in response to a request by the Chair as to the constitutionality of the EEOC's disparate impact guidelines, the US Department of Justice Office of Legal Counsel issued a nonbinding legal opinion on 9 June 2026, finding "that [the agency's] guidelines about disparate-impact liability under Title VII of the Civil Rights Act are unconstitutional."

In addition to focusing on intentional discrimination claims, which the agency determined are "inherently are more egregious forms of discrimination than unintentional disparities between groups of employees which arise from an employer's neutral policies or practices", the NEP identifies the following enforcement priorities:[5]

- Diversity, equity, and inclusion (DEI) or "similar euphemisms" resulting in facially discriminatory practices or other such policies resulting in intentional discrimination.
- Claims related to the application of recent US Supreme Court decisions, with a focus on DEI practices, voluntary affirmative action programs, religious accommodations pursuant to *Groff v. DeJoy*,[6] single-sex spaces in the workplace, and employer obligations under the Pregnant Worker Fairness Act.
- Addressing federal circuit court splits.
- Cases focused on protecting vulnerable or underserved workers, including teenage workers, persons with limited literacy or education, low-wage earners, survivors of sexual assault, and workers with developmental or intellectual disabilities.

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- Issues that implicate the integrity and effectiveness of the EEOC's enforcement processes, including investigations and conciliation efforts.
- Appellate cases that provide an opportunity to clarify the scope of liability under the laws the EEOC enforces, especially in cases involving religious organizations and employers.

The EEOC stated that its enforcement activities are not limited to the enumerated priority areas and were not presented in any particular order of importance.[7] Additionally, EEOC Chair Andrea R. Lucas (the Chair) laid out certain "Chair Priorities" that "complement, and are applications of" the NEP's general priorities, including the following:[8]

- Addressing race and sex discrimination deriving from DEI practices and policies.
- The protection of US workers from discrimination relating to US national origin.
- Enforcing women's rights to single-sex spaces and workers' rights to "express the binary nature of sex."
- Protecting employers' rights to religious accommodation.

CONSIDERATIONS FOR EMPLOYERS

The EEOC's 2025–2029 NEP formalizes the recent shift in the agency's enforcement priorities. Although the NEP does not modify employer obligations under Title VII of the Civil Rights Act of 1964 and other federal employment anti-discrimination laws, it provides insight into where the EEOC is likely to direct its resources in the coming years. Employers should use this as an opportunity to review hiring, promotion, accommodation, DEI, and workplace conduct policies to confirm that such policies are in compliance with federal, state, and local employment laws, consistently applied, and supported by clear business and compliance rationales. Further, employers should evaluate current employment practices in light of the NEP's enforcement priorities, especially as various state law requirements may be contrary to the federal directives in the NEP. By proactively evaluating these practices now, employers can better position themselves to respond to the EEOC's evolving enforcement approach.

Our Labor, Employment, and Workplace Safety practice is available to assist employers in navigating these developments.

We recognize our summer associates, Ahmed Al-Khawaja and Sara McClure, for their contributions to this client alert.

FOOTNOTES

[1] U.S. Equal Emp. Opportunity Comm'n, Directives Transmittal No. 600.001, National Enforcement Plan Fiscal Years 2025–2029 (June 4, 2026).

[2] Press Release, U.S. Equal Emp. Opportunity Comm'n, EEOC Releases New National Enforcement Plan (June 4, 2026).

[3] *See* Erinn L. Rigney & Leann M. Walsh, *EEOC Acting Chair Issues Statement Announcing Commission's Plans*

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to Remove Gender Ideology and Return to Mission of "Protecting Women in the Workplace", K&L GATES HUB (Feb. 4, 2025), https://www.klgates.com/EEOC-Acting-Chair-Issues-Statement-Announcing-Commissions-Plans-to-Remove-Gender-Ideology-and-Return-to-Misson-of-Protecting-Women-in-the-Workplace-2-4-2025; Craig E. Leen, Erinn L. Rigney & Leann M. Walsh, *Uncharted Waters: Employers Brace for Significant and Unprecedented Changes to Employment Law Enforcement Under New Administration,* K&L GATES HUB (Jan. 24, 2025), https://www.klgates.com/Uncharted-Waters-Employers-Brace-for-Significant-and-Unprecedented-Changes-to-Employment-Law-Enforcement-Under-New-Administration-1-24-2025.

4 NEP § I.E.

5 *Id.*

6 600 U.S. 447 (2023); see Erinn L. Rigney & April Boyer, US Supreme Court Unanimously Adopts Heightened "*Undue Hardship" Standard in Title VII Religious Accommodation Analysis*, K&L GATES HUB (June 30, 2023), https://www.klgates.com/US-Supreme-Court-Unanimously-Adopts-Heightened-Undue-Hardship-Standard-in-Title-Vii-Religious-Accommodation-Analysis-6-30-2023.

7 NEP § I.G.

8 *See generally* id. § III.

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